

Report on Medicaid Reform Activities
Prepared by Jeffery W. Santema, Legal Counsel
Health and Human Services Committee
July 2005

LB 709 (2005)

LB 709 was passed by the Nebraska Legislature with an emergency clause and signed by Governor Heineman on June 2, 2005. The bill, in part, adopts the Medicaid Reform Act (act), which terminates on January 1, 2006 (sec. 1). The bill contains legislative findings relating to the need for Medicaid reform and the significance of the Medicaid program nationally, and in Nebraska (sec. 2-3)

The purpose of the act is to provide for reform of the medical assistance program (Medicaid) and a substantive recodification of statutes relating to the program, including, but not limited to, the enactment of policies to (1) moderate the growth of Medicaid spending, (2) ensure future sustainability of the program for Nebraska residents, (3) establish priorities and ensure flexibility in the allocation Medicaid benefits, and (4) provide alternatives to Medicaid eligibility for Nebraska residents (sec. 4).

The bill intends to provide for the development of a Medicaid reform plan for the State of Nebraska and the enactment of necessary and appropriate legislation to implement the plan. The plan must consider and address (1) The needs of low-income, disabled, and aged persons currently receiving Medicaid services; (2) avoiding the shifting of the primary costs of health care services to providers of care; (3) the appropriate role of county government in providing health care services; (4) the availability and affordability of private health care insurance and long-term care insurance; (5) the personal responsibility of persons, who are able, to select and provide for all or a portion of the payment for their health care services; (6) the fiscal sustainability of such plan; and (7) alternatives to increase federal funding for services in order to reduce dependence on General Funds and maintain or increase the total amount of funding for services, and the possible utilization of national consultants to assist in the consideration of such alternatives (sec. 5).

The bill requires the Governor and the chairperson of the Health and Human Services Committee of the Legislature to each designate one person who will be responsible to the Governor and the committee for the development of a Medicaid reform plan for the State of Nebraska. The plan must be developed by the designees in consultation with the Governor, the committee, the Policy Cabinet, and the federal Centers for Medicare and Medicaid Services. Public input must be solicited, and at least one public meeting must be conducted in each congressional district before the plan is submitted. Monthly reports are required during preparation of the plan. The plan must be submitted to the Governor and the Legislature no later than December 1, 2005, and must include recommendations for the development of Medicaid plan amendments and waivers and draft legislation necessary to support the plan. The Health and Human Services Committee must conduct a public hearing on or before December 15, 2005, to receive public input regarding the plan (sec. 6).

The bill establishes a Medicaid Reform Advisory Council consisting of five persons appointed by the Governor and five persons appointed by the chairperson of the Health and Human Services Committee, including at least one representative from each of the following classes of persons: (1) consumers/consumer advocates, (2) providers, (3) insurers, (4) business

interests, and (5) elected officials. The council must meet monthly with the designees, review monthly reports provided by the designees, and provide recommendations by December 14, 2005, regarding the Medicaid reform plan submitted by the designees (sec. 7).

The chairperson of the Health and Human Services Committee, in consultation with the members of the committee, may prepare and introduce legislation in 2006 to implement the plan (sec. 8).

The complete text of the act, with annotations, is attached.

Implementation

Richard Nelson, Director of HHS Finance and Support, made an initial presentation to HHSS staff on June 15 and has established a number of internal work groups within the Department of Health and Human Services Finance and Support to conduct a thorough internal review of the Medicaid program and elicit draft recommendations. Director Nelson and his staff have also provided several Medicaid-related presentations and more such presentations are scheduled. Lists of key HHSS personnel and work groups and HHSS presentations are attached.

On June 23, Governor Heineman and Senator Jim Jensen officially announced the designation of Richard Nelson, Director of HHS Finance and Support, and Jeff Santema, legal counsel to the Health and Human Services Committee, as the persons responsible for development of the Medicaid reform plan. On that day, the Governor and Senator Jensen also announced the appointment of ten members to the Medicaid Reform Advisory Council. A list of council members is attached. The first meeting of the council is Wednesday, July 27, 2005, at 9:00 a.m., in room 1510 of the State Capitol. All advisory council meetings are open to the public. Times and locations for all advisory council meetings will be posted on the State of Nebraska web site at <http://www.nebraska.gov/calendar/index.cgi>.

The two Medicaid reform designees and Mary Steiner, Nebraska Medicaid Administrator, attended an initial meeting with the federal Centers for Medicare and Medicaid Services (CMS) on Tuesday, July 12th, in Kansas City. Attending from CMS were Tom Lenz (CMS regional administrator), James Scott (CMS acting regional Medicaid administrator), and Dianna Townsend (CMS Medicaid account representative for Nebraska). CMS is supportive of states' Medicaid reform efforts. Ongoing and frequent communication and dialogue with CMS will be essential to help ensure successful attainment of necessary federal waivers to implement proposed reforms in Nebraska.

August and September will be devoted primarily to research and the development of draft reform policies and recommendations. October and November will be devoted to soliciting public input on the draft policies and recommendations. Such input will include at least one public meeting in each congressional district and several other meetings with various constituency groups and the general public. The Medicaid reform plan will be submitted by the two Medicaid reform designees on December 1, 2005, and the remainder of December will be focused on finalizing draft legislation for introduction in January 2006.

Conclusion

Medicaid reform is not new, but it is very difficult to accomplish. In LB 709, the Governor and the Nebraska Legislature have made Medicaid reform a very high priority.

The goal of LB 709 is not to destroy Medicaid. It is to reform Medicaid while protecting the needs of people and defining the appropriate role of government in helping to ensure access

to adequate and affordable health care for all Nebraskans, within the fiscal constraints of the state's budget. The Legislative and Executive branches of state government have said that the status quo is inadequate and unaffordable.

Medicaid reform must include dedicated leadership, thoughtful scholarship, accurate and complete information, genuine compassion, fiscal responsibility, creativity, bipartisan cooperation and input, and it must consider more than just Medicaid. The first step toward reform must involve the development of a clear and thoughtful public policy upon which to build future Medicaid reforms and substantive recodification of current Medicaid statutes.

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The Framework for Nebraska Medicaid Reform

The Challenge

The people of the State of Nebraska are confronted with the imperative to reform Medicaid. This imperative stems not only from the requirements of LB 709, but also from the underlying budgetary and demographic realities.

Medicaid is a vital program, providing essential health services to children, low-income adults, disabled adults, and the aged. Because Medicaid is so important as a health safety net, the mere discussion of Medicaid reform can raise anxieties among those who are being served and their families.

At the same time, there are genuine concerns that the current structure of the Nebraska Medicaid program is not fiscally sustainable. The program is consuming an ever-larger part of the state's General Fund revenues.

Medicaid reform provides the opportunity for the people of our state to discuss the Medicaid program: what is it, what it is not, and what it should be. It is an opportunity to have a broader dialogue about the state's priorities among the government programs competing for finite General Fund resources.

The challenge is to conduct the dialogue in a framework that promotes understanding, encourages problem solving, and reaches reasonable and workable solutions for these complex issues.

Deliberate

Medicaid reform must be deliberate. We need to gather and examine the facts: who is receiving Medicaid, who should be receiving Medicaid, what are the cost drivers, and how can we make the program better. Facts can explode myths. Facts can illuminate issues, and they can point the way to solutions.

A reform effort can lead to unanticipated as well as anticipated consequences. Therefore, a thoughtful, fact-driven effort is essential to reduce anxiety and make informed public policy decisions.

A notebook is submitted, as a part of this report, containing a series of explanations, tables, charts, and graphs that can begin the process of developing informed public policy. In subsequent reports, I will continue to identify and present information relevant to the discussion of reform efforts.

Deliberative

Successful Medicaid reform will require buy-in by numerous interested parties, including consumers of Medicaid services and their advocates, state and local public officials, providers, and the taxpayers of this state. There need to be opportunities for open dialogue.

As designees, Mr. Santema and I will issue public reports monthly to the Governor and the Health and Human Services Committee. The Medicaid Reform Advisory Council will review the reports in its monthly meetings. Later in the fall, we will hold a public meeting in each of the Congressional Districts. Those meetings will be scheduled after a draft of reform ideas has been published for discussion purposes. The public meeting comments will be considered as an integral part of the process of producing a final reform plan. The final report will be reviewed by the Medicaid Reform Advisory Council, which will formulate its recommendations regarding the plan.

The Legislature will then formally take up the reform effort. The Health and Human Services Committee will hold a public hearing in 2005 to receive comments on the final plan. The Committee may then formulate legislation for introduction in 2006. Any legislation will go through the customary process of public legislative hearings, debate and enactment.

Conclusion

The people of Nebraska have an opportunity to examine Medicaid and to reform it before the growing state fiscal pressures force a crisis response. A deliberate and deliberative process offers all of us the opportunity to unite behind sound public policy decisions.

LB 709 (2005)
Medicaid Reform Act

Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Medicaid Reform Act. The Medicaid Reform Act terminates on January 1, 2006.

Sec. 2. The Legislature finds that:

(1) The medical assistance program has resulted in significantly increased expenditures by the State of Nebraska;

(2) In response to such increased expenditures, the Legislature has taken various actions affecting the availability and adequacy of medical assistance benefits to Nebraska residents under the program;

(3) As a result of such increased expenditures, the medical assistance program may become fiscally unsustainable; and

(4) Fundamental reform of the medical assistance program is necessary in order to ensure future sustainability of the program for the benefit of Nebraska residents.

Sec. 3. The Legislature finds that:

(1) The medicaid program under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., provides essential health care and long-term care coverage to low-income children, pregnant women, and families, individuals with disabilities, and senior citizens serving over one in ten Nebraskans;

(2) The medicaid program covers one in four children in rural areas;

(3) The medicaid program is the largest single purchaser of maternity care and pays for over one-third of the births in the United States each year;

(4) Medicaid is America's single largest purchaser of nursing home services and other long-term care, covering the majority of nursing home residents;

(5) In Nebraska, the elderly and individuals with disabilities comprise twenty-three and three-tenths percent of the medicaid population and represent sixty-seven and two-tenths percent of medicaid expenditures;

(6) In Nebraska, low-income children and their parents comprise seventy-six and seven-tenths percent of the medicaid population and represent thirty-two and eight-tenths percent of medicaid expenditures;

(7) Medicaid pays for personal care and other supportive services necessary to enable individuals with disabilities to remain in the community, to work, and to maintain independence; and

(8) Medicaid is the single largest source of revenue for the nation's safety net hospitals and health centers and is critical to the ability of these providers to continue to serve medicaid enrollees and uninsured Americans.

Sec. 4. The purpose of the Medicaid Reform Act is to provide for reform of the medical assistance program established in section 68-1018, also known as medicaid, and a substantive recodification of statutes relating to such program, including, but not limited to, the enactment of policies to (1) moderate the growth of medicaid spending, (2) ensure future sustainability of the medical assistance program for Nebraska residents, (3) establish priorities and ensure flexibility in the allocation of medical assistance benefits, and (4) provide alternatives to medicaid eligibility for Nebraska residents.

Sec. 5. (1) It is the intent of the Legislature to provide for the development of a medicaid reform plan for the State of Nebraska and the enactment of necessary and appropriate legislation to implement such plan.

(2) It is the intent of the Legislature that such plan consider and address:

(a) The needs of low-income, disabled, and aged persons currently receiving

1. Short title, termination date

2. Findings

3. Findings

4. Purpose

- a. reform of the medical assistance program (Medicaid)
- b. substantive recodification of Medicaid-related statutes
- c. enactment of policies

5. Intent

- a. develop a Medicaid reform plan for the State of Nebraska
- b. enactment of necessary and appropriate legislation to

medicaid services; (b) avoiding the shifting of the primary costs of health care services to providers of care; (c) the appropriate role of county government in providing health care services; (d) the availability and affordability of private health care insurance and long-term care insurance; (e) the personal responsibility of persons, who are able, to select and provide for all or a portion of the payment for their health care services; (f) the fiscal sustainability of such plan; and (g) alternatives to increase federal funding for services in order to reduce dependence on General Funds and maintain or increase the total amount of funding for such services, and the possible utilization of national consultants to assist in the consideration of such alternatives.

Sec. 6. The Governor and the chairperson of the Health and Human Services Committee of the Legislature shall each designate one person who shall be responsible to the Governor and the committee for the development of a medicaid reform plan for the State of Nebraska. Such plan shall be developed in consultation with the Governor, the committee, the Policy Cabinet established in section 81-3009, and the federal Centers for Medicare and Medicaid Services. Public input shall be solicited, and at least one public meeting shall be conducted in each congressional district during preparation of the plan and prior to submission of the plan. Monthly reports shall be provided to the Governor and the committee during preparation of the plan. Such reports shall be reviewed by the Medicaid Reform Advisory Council established in section 7 of this act and shall be available to the public. Such plan shall be submitted to the Governor and the Legislature no later than December 1, 2005, and shall include recommendations for the development of medicaid plan amendments and waivers and draft legislation necessary to support such plan. The committee shall conduct a public hearing on or before December 15, 2005, to receive public input regarding the plan.

Sec. 7. (1) The Medicaid Reform Advisory Council is established. The council shall consist of five persons appointed by the Governor and five persons appointed by the chairperson of the Health and Human Services Committee of the Legislature. The council shall consist of, but not be limited to, at least one representative from each of the following classes of persons: Health care providers, health care consumers and consumer advocates, business representatives, insurers, and elected officials.

(2) The council shall meet monthly with persons designated by the Governor and the chairperson of the Health and Human Services Committee under section 6 of this act and shall review monthly reports submitted by such designees under such section. Minutes of such meetings shall be available to the public and provided to the Governor and members of the Health and Human Services Committee of the Legislature.

(3) The council shall review the medicaid reform plan submitted under section 6 of this act and shall provide recommendations relating to the plan to the Governor and the Legislature on or before December 14, 2005.

(4) Members of the council shall serve without compensation for such service but shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 8. The chairperson of the Health and Human Services Committee of the Legislature, in consultation with the committee, may prepare and introduce legislation in the Ninety-ninth Legislature, Second Session, to implement the medicaid reform plan developed under section 6 of this act.

implement the plan
c. the plan must consider and address

6. Designees to develop plan
 - a. Governor and HHS Committee chair each appoint one person
 - b. consult with Gov., committee, Policy Cabinet, and CMS
 - c. public input solicited
 - d. at least one public meeting in each congressional district
 - e. monthly reports to Gov. and HHS committee, reviewed by Medicaid Reform Advisory Council
 - g. plan submitted by 12-1-05, including recommendations and draft legislation
 - h. HHS committee hold public hearing by 12-15-05

7. Medicaid Reform Advisory Council
 - a. 10 persons; 5 appointed by Gov. and 5 by chair of HHS Committee, representing health care providers, health care consumers/advocates, business, insurers, and elected officials
 - b. meet monthly with designees and review designee monthly reports
 - c. review plan and provide recommendations by 12-14-05

8. Legislation may be introduced in 2006 to implement the plan

Medicaid Reform Advisory Council
LB 709 (2005)

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<u>Name</u>	<u>Position</u>	<u>Class</u>
1. Kathy Campbell	Exec. VP, CEDARS Home for Children Foundation	C
2. Gayle-ann Douglas	Exec. VP, Douglas Manufacturing Corp.	B
3. Mary Lee Fitzsimmons	Iowa/Nebraska Primary Care Association	C
4. Philip Gustafson	Pres./CEO, Creighton University Medical Center	P
5. Steve Martin	Pres./CEO, Blue Cross/Blue Shield of NE	I
6. Senator Don Pederson	Chair, Appropriations Committee	E
7. Ron Ross	State Treasurer	E
8. Cory Shaw	CAO, University Medical Associates	P
9. Pat Snyder	Exec. Dir., NE Health Care Assoc.	P
10. Tony Sorrentino	Exec. VP, Silverstone Group	B

E = elected official

I = insurer

P = provider

B = business

C = consumer advocate

**Department of Health and Human Services Finance and Support
Medicaid Reform Administration and Work Groups
2005**

Director of HHS Finance and Support: Richard Nelson

Medicaid Administrator: Mary Steiner

Project Coordinator: Paula Hartig

Research Coordinator: Kim Collins

Work Teams:

- Medicaid reform coordinating committee

- Medicaid reform website

- Healthy children (including pregnant women)

- Disabled children

- Adults

- Disabled adults

- Aged

- Medicaid alternatives

**HHSS Medicaid Presentations
2005**

February

Health and Human Services Committee, Nebraska Legislature

March

Children and Family Coalition of Nebraska

April

Nebraska Association of Private Residential Resources

Nebraska Hospital Association

Nebraska Association of Homes and Services for the Aging

Nebraska Health Care Association

May

Nebraska Consortium of Citizens with Disabilities

Nebraska Medical Association

Heartland Health Alliance

June

Health and Human Services staff

ARC of Nebraska

July

Nebraska Pharmacists Association

AARP Nebraska